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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,227	03/25/2002	Albert Louis Victor Jozef Claessens	23655IN2PCT/US	9957
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Martin A Farber				
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New York, NY 10017				
			EXAMINER	
			NGO, LIEN M	
			ART UNIT	PAPER NUMBER
			3754	
			MAIL DATE	DELIVERY MODE
			08/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/980,227

Applicant(s)

CLAESSENS, ALBERT LOUIS
VICTOR JOZEF

Examiner

LIEN TM NGO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-63 is/are pending in the application.
- 4a) Of the above claim(s) 33-35, 38, 39, 43, 45-49, 56 and 60-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32, 36, 37, 40-42, 44, 50-55, 57-59 and 63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 32, 36, 37, 40-42, 44, 50-55, 57-59 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matukura et al. (4,441,621) in view of Thijs et al. (5,163,919) and further in view of Paisley et al. (4,363,849).

Matukura et al. disclose, in fig. 3, a rubber stopper comprising a stopper collar having a greater wall thickness than a topper top in its central region.

Matukura et al. do not disclose the stopper comprising at least 30% of mineral filler and being produced by hot runner injection.

Thijs et al. teach, in col. 4. , a stopper of a thermoplastic elastomer material comprising more than 30% of mineral filler (40-45% silicate filler).

Paisley et al. teach, in fig. 1, and col. 2, line 25-34, a stopper being molded by hot runner injection.

Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the Matukura et al. stopper having a mineral filler as claimed, as taught by Thijs et al., and the stopper being produced by hot runner molding injection, as taught by Paisley et al., in order to provide a smooth surface stopper with a suitable hardness.

3. In regard to claims 57 and 63, Paisley et al. teach the hot runner injection is performed in a region of the stopper top.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kasai et al. (4,444,330) and Sudo et al. (5,994,465) teach stoppers including more than 30% mineral filler.

Riiska et al. (2003/0030189) and Yaniger teaches that it is well known to mold stoppers by hot runner injection process.

Response to Arguments

5. Applicant's arguments filed 5/8/07 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Matukura et al. disclose, in fig. 3, a rubber stopper comprising limitations substantially as claimed. Matukura et al. do not disclose the stopper comprising at least 30% of mineral filler and being produced by hot runner injection. Thijs et al. teach, in col. 4, a stopper of a thermoplastic

elastomer material comprising more than 30% of mineral filler (40-45% silicate filler). Paisley et al. teach, in fig. 1, and col. 2, line 25-34, a stopper being molded by hot runner injection. Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the Matukura et al. stopper having a mineral filler as claimed, as taught by Thijs et al., and the stopper being produced by hot runner molding injection, as taught by Paisley et al., in order to provide a smooth surface stopper with a suitable hardness.

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., only comparatively slow to inject, rapid injection is not possible) are not recited in the rejected claim(s).

7. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references, for example, the mineral filler which slows down the filling of a mold, to use shutoff pins which have an acute end, this would lead to a surface mark, such stopper would not be acceptable for pharmaceutical articles..

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LIEN TM NGO
Primary Examiner
Art Unit 3754

August 1, 2007

A handwritten signature in black ink, appearing to read 'Lien TM Ngo', with a long horizontal stroke extending to the left.